



DOCKET FILE COPY ORIGINAL

Steve Gluckman
Vice President of Legal & Regulatory Affairs

January 12, 2001

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Room TW B-204
Washington, DC 20554

RECEIVED
JAN 12 2001
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Gen Docket No. 00-185
Reply Comments of Mediacom Communications Corporation

Dear Ms. Salas:

Mediacom Communications Corporation ("Mediacom") files this short reply to address critical concerns raised by the Comments of EchoStar Satellite Corporation ("EchoStar") in this docket. Mediacom is the ninth largest cable television operator and serves approximately 777,000 customers in over 1,000 franchised communities in twenty-two states.

Mediacom is working hard to bridge the digital divide. It has made tremendous capital investments to upgrade systems and launch high-speed Internet access and other advanced services in the communities it serves. As a result of this capital improvements program, Mediacom now offers high-speed Internet service on its cable television systems passing over 425,000 homes, approximately one-third of its homes passed. As a result of these efforts, high-speed Internet services is now available to residents of towns such as Cambridge, Illinois (1990 population: 2,124) and Tompkinsville, Kentucky (1990 population: 2,861). At the end of the third quarter of 2000, the Company served 11,200 data customers (both high-speed and dial-up), compared to 5,100 customers at year-end 1999.

Mediacom has particular concern regarding the Comments filed in this proceeding by one of its primary competitors in providing multichannel video programming and other advanced services to smaller communities and rural areas -- EchoStar Satellite Corporation.¹ EchoStar's Comments demand a response since they do not comport with recent industry trends or EchoStar's own business strategy.

EchoStar attempts to convince the Commission that, if it imposes forced access requirements on cable operators, not only should Internet Service Providers ("ISPs") be able to require access, but "horizontal competitors" like EchoStar should be able to stake claim as well. EchoStar erroneously relies on its claimed lack of market power and the need to compete

¹ See Comments of EchoStar Satellite Corporation in Gen Docket No. 00-185 (November 27, 2000) ("EchoStar Comments").

Mediacom Communications Corporation
100 Crystal Run Road • Middletown, NY 10941 • 914-695-2650 • FAX 914-695-2679

No. of Copies rec'd 014
List A B C D E

on a more even footing with cable operators.² EchoStar incorrectly suggests that it lacks the technological tools to effectively compete with the cable industry.³ The present competitive environment and recent Commission findings, however, belie EchoStar's arguments.

EchoStar competes with cable in the delivery of multichannel video programming.

EchoStar is a formidable competitor to cable in the delivery of multichannel video programming, particular in smaller communities and rural America. The Commission's *Seventh Annual Video Competition Report* demonstrates that growth of the direct broadcast satellite ("DBS") industry is outpacing the growth of cable.⁴ Statistically, the DBS industry has had the highest percentage of recent growth in subscribership. As the *Seventh Annual Video Competition Report* relates, DBS subscribership has skyrocketed more than 200% since December 1996, while total cable subscribership has only grown about 6-7% over that same time.⁵

Competition exists in the delivery of high-speed Internet access.

Significantly, there is vigorous competition in the delivery of high-speed Internet access services. All technologies are aggressively introducing high-speed Internet services, and the Commission's recent findings anticipate tremendous growth over the next five years for all methods of delivering such services, including satellite-delivered high-speed services.⁶ The *2000 Section 706 Report* forecasts that all technological modes of high-speed Internet access delivery will experience rapid increases in subscribership, with the potential for various technologies to dominate in particular market niches.⁷ For example, "[s]ome analysts predict that satellite high-speed systems will become the dominant means of delivering high-speed data and Internet to users outside urban areas and in areas of low subscriber density."⁸ the exact areas where companies like Mediacom are aggressively upgrading systems to introduce advanced services and bridge the digital divide.

EchoStar's business strategy includes two-way, satellite delivered high-speed Internet access service bundled with video programming.

EchoStar's own business strategy belies its argument in favor of government intervention to ensure that it can compete on a more even footing with cable. Two-way,

² See EchoStar Comments at 2.

³ See *id.*

⁴ See *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, CS Docket No. 00-132 (released January 8, 2001) ("*Seventh Annual Video Competition Report*") at Appendix C, Table C-1.

⁵ See *id.*

⁶ See *In the Matter of Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996*, CC Docket No. 98-141, FCC 00-290 (released August 21, 2000) ("*2000 Section 706 Report*") at ¶¶ 191, 195, 197 and 200.

⁷ See *id.*

⁸ See *2000 Section 706 Report* at ¶ 202 (internal citations omitted) (emphasis added).

satellite-delivered high-speed Internet access already exists.⁹ Both primary DBS providers, EchoStar and DirecTV, have recently begun to offer their customers such service, bundling it with their video programming services.¹⁰ EchoStar, while complaining that it cannot offer bundled services without access to separately developed cable operator broadband infrastructure, is indeed engaging in that same bundled delivery through its joint venture with StarBand Communications Inc.¹¹ EchoStar, and other DBS providers, therefore have all tools necessary to compete with cable on an even footing.¹²

Government intervention would be premature and counterproductive.

The circumstances do not warrant government intervention at this time. As noted above, forecasts predict tremendous growth in high-speed Internet access services by all providers of such services.

Interestingly, EchoStar's strategic partner StarBand, like Mediacom, advocates against government intervention in nascent technology initiatives, stating that

StarBand believes that, at this early stage in the development of the market, FCC intervention into *any* part of the broadband services marketplace is, at best, premature. Competitive pressures already exist in this market sector and promise to increase substantially as new systems are introduced.¹³

EchoStar's partner apparently believes that satellite providers suffer no technological disadvantage.

⁹ See, e.g., Comments of StarBand Communications, Inc. in Gen Docket No. 00-185 (December 1, 2000).

¹⁰ See DISH Network homepage at <http://www.dishnetwork.com/content/pymotions/starband/index.shtml>; see also DirecPC homepage at <http://www.direcpc.com/consumer/scoop/twoway.html>.

¹¹ See StarBand Comments at 2; EchoStar Comments at 5.

¹² DBS providers have a significant advantage over cable because of DBS' national footprint, which provides greater leverage in programming contract negotiations.

¹³ StarBand Comments at ii.

For the reasons outlined above, Mediacom joins other broadband service providers in urging the Commission to refrain from imposing any sort of forced access requirement on any service provider. Consumer choice already exists with respect to the delivery of high-speed Internet access services with anticipated growth for all technologies. Premature government intervention remains particularly counterproductive in smaller communities and rural areas where forced access would stymie future efforts of companies like Mediacom that are working diligently to bridge the digital divide. The Commission should therefore continue its current policy of allowing marketplace forces resolve how this nascent industry develops.

Respectfully submitted,

MEDIACOM COMMUNICATIONS CORPORATION

By: 

Bruce Gluckman

Vice President, Legal and Regulatory Affairs

129858

CERTIFICATE OF SERVICE

I, Lisa Chandler Cordell, with the law firm of Fleischman and Walsh, L.L.P., certify that on this 12th day of January 2001, I sent, via first class mail or hand delivery, copies of the foregoing REPLY COMMENTS OF MEDIACOM COMMUNICATIONS CORPORATION to each of the following:

Johanna Mikes
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW
Room 5-C163
Washington, DC 20554

Christopher Libertelli
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW
Room 5-C264
Washington, DC 20554

Carl Kandutsch
Cable Services Bureau
Federal Communications Commission
445 12th Street, SW
Room 3-A832
Washington, DC 20554

Rhonda Rivens Bolton†
Steptoe & Johnson LLP
1330 Connecticut Avenue, NW
Washington, DC 20036
Counsel for EchoStar Satellite Corporation

Norman P. Leventhal†
David S. Keir
Leventhal, Senter & Lerman, P.L.L.C.
2000 K Street, NW
Suite 600
Washington, DC 20006
Counsel for StarBand Communications Inc.

Douglas Sicker
Office of Engineering and Technology
Federal Communications Commission
445 12th Street, SW
Room 7-A325
Washington, DC 20554

Robert Cannon
Office of Plans and Policy
Federal Communications Commission
445 12th Street, SW
Room 7-B410
Washington, DC 20554

International Transcription Service
Federal Communications Commission
445 12th Street, SW
CY-B402
Washington, DC 20554


Lisa Chandler Cordell

†- first class mail